

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**1026 CIVIL APPLICATION NO.197 OF 2019
IN FAST/12241/2018**

THE EX. ENGINEER, THR ROHAN D DESAI AS ASST. ENGINEERGRADE - I
MINOR IRRIGATION
VERSUS
FULCHAND ABA RAKH AND ORS

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Advocate for Applicant : Mr. Rodge Suresh N.
AGP for Respondents/State : Mr. S.P. Deshmukh
Advocate for Respondent Nos.1 to 3 : Mr. P.S. Chavan

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 20th SEPTEMBER, 2019.

ORDER :

. Present application has been filed for getting the delay of 1013 days condoned in filing first appeal. The acquiring body intends to challenge the judgment and award passed by the learned reference Court.

2. Learned Advocate appearing for the original claimants i.e. present respondent Nos.1 to 3 raises strong objection for condoning the delay. It is stated that the delay is huge and inordinate. He also submitted that in connected matters i.e. first appeal No.800 of 2015 and others, this Court has passed judgment on 21.07.2015 and those appeals were filed by the acquiring body. Those appeals have been dismissed.

3. It is to be noted that the merits of the case cannot be gone into and in order to hold the parity in this case, the other aspects regarding similarity in the award etc. is required to be seen. When today the matter is only for the consideration of the delay condonation application, it is required to be seen.

4. The contents of the application would show that the judgment and award passed by the learned reference Court on 19.03.2015. The certified copy was applied on behalf of the present applicant on 23.03.2015. The copy was delivered on 15.04.2015. It is stated that after the receipt of the certified copies, the panel Advocate who was appearing for the applicant before the reference Court informed and suggested about filing of the appeal and then, the Advocate on the panel with this Court received the Court fees by letter dated 06.02.2017. Thus, it is to be noted that the contents of the application, showing reasons for the delay, is on the part of advocates and not in respect of the applicant. When in fact it was required that the reasons should be given for the delay on behalf of the applicant i.e. the litigant not the advocate. There is absolutely no proper explanation from the period 15.04.2015 to 06.02.2017. Hence, application itself is dismissed.

(SMT. VIBHA KANKANWADI, J.)

SCM